IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO.20 OF 1999

The Commissioner of Income Tax,
'Aayakar Bhavan', 31-C/2,
'E' Ward, Tarabai Park,
Kolhapur 416 003. ...Appellant.

V/s.

The Deccan Co-operative
Spinning Mills Ltd.,Ichalkaranji,
Dist.Kolhapur. ...Respondents.

Shri A.S.Rao for the Appellant.
None for the Respondent.

CORAM: S.RADHAKRISHNAN &
J.H.BHATIA, JJ.
DATE : 5th July, 2005.

ORAL JUDGMENT: (Per J.H.Bhatia, J.)

1. This Appeal is filed under section 260A of the Income Tax Act, challenging the order of the Income Tax Appellate Tribunal in Income Tax Appeal No.1017/PN/1997 for the assessment year 1994-95.

2. The following substantial question of law has arisen in the said Appeal.

> "Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that interest on non refundable deposits is allowable deduction

under section 36(1) (iii) contrary to the decision of the Honourable Supreme Court in the case of Bazpur Co-operative Sugar Factory Ltd. (177 ITR 469) wherein it is held that interest paid on such deposits is not allowable deduction ?"

3. Heard the learned counsels for both the parties. Admittedly, the Supreme Court has distinguished the rules pertaining to the Co-operative Sugar Factories in Uttar Pradesh applicable in Bazpur Co-operative Sugar Factory and the provisions of law obtained in Maharashtra **in Commissioner of Income Tax v. Shri Chhatrapati Sahakari Sakhar Karkhana Ltd.(2004) 270 ITR 1.** In view of the rules in Maharashtra, the Supreme Court has clearly held that Non-refundable deposits are not the trading receipts in the hands of the Co-operative Societies and they are only deposits belonging to the member of the Society. Interest on Non-refundable Deposits is also liable to be deducted from the income. Relying upon the Supreme Court authority in Shri Chhatrapati Sahakari Sakhar Karkhana Ltd., this Court has disposed of Income Tax Appeal No.9 of 1999 alongwith a group of Appeals. As such, question of law raised in the present Appeal is fully covered by the judgment of the Supreme Court in Shri Chhatrapati

Sahakari Sakhar Karkhana Ltd as also by the judgment of this Court.

4. In view of the aforesaid reasons, we answer the question in affirmative, that is, in favour of the assessee and against the Revenue. The Appeal stands dismissed accordingly.

(S.RADHAKRISHNAN,J.)

(J.H.BHATIA, J.)